

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

**SCOTT R. WERNER, M.D.**

Holder of License No. **17352**  
For the Practice of Medicine  
In the State of Arizona.

Case No. MD-04-1094A

**CONSENT AGREEMENT FOR  
SURRENDER OF ACTIVE LICENSE**

**CONSENT AGREEMENT**

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Scott R. Werner, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent acknowledges that he has read this Consent Agreement and the attached Findings of Fact, Conclusions of Law and Order; and, he is aware of and understands the content of the documents. Respondent acknowledges the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement he voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters of fact or law alleged; or to challenge this Consent Agreement in its entirety as issued by the Board and waives any other cause of action related thereto or arising from said Consent Agreement.

3. Respondent acknowledges and understands that this Consent Agreement will not become effective until approved by the Board and signed by its Executive Director.

4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended

1 or made for any other use, such as in the context of another state or federal government  
2 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or  
3 any other state or federal court.

4 5. Respondent acknowledges and agrees that, although the Board has not  
5 accepted and the Executive Director has not yet issued this Consent Agreement,  
6 Respondent may not make any modifications to the document. Upon signing this  
7 agreement, and returning this document (or a copy thereof) to the Board's Executive  
8 Director, Respondent may not revoke acceptance of the Consent Agreement. Any  
9 modifications to this Consent Agreement are ineffective and void unless mutually  
10 approved by the parties.  
11

12 6. Respondent further understands that this Consent Agreement is a public  
13 record that may be publicly disseminated as a formal disciplinary action of the Board and  
14 will be reported to the National Practitioner's Data Bank and will be reported on the Board  
15 web site.

16 7. If any part of the Consent Agreement is later declared void or otherwise  
17 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in  
18 force and effect.  
19

20 Scott R Werner MD  
21 SCOTT R. WERNER, M.D.

Dated: Dec 8, 2005

**FINDINGS OF FACT**

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 17352 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-04-1094A upon notification that Respondent was indicted on 54 counts of health care fraud. These acts of health care fraud are felonies.

4. On June 3, 2005 the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah ("Utah") accepted the surrender of Respondent's license to practice medicine. Respondent admitted to devising a scheme to defraud health care benefit programs by submitting false claims for intravenous therapy services when in truth Respondent rendered chelation therapy services.

5. The Utah Surrender Order is incorporated by reference.

6. Respondent admits that the acts described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(27)(o) ([a]ction that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine, the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction"), §32-1401(27)(d) ([c]omitting a felony, whether or not involving moral turpitude. In either case, conviction by any court of competent jurisdiction

1 or a plea of no contest is conclusive evidence of the commission") and §32-1401(27)(a)  
2 ["v]iolating any federal or state laws or rules and regulations applicable to the practice of  
3 medicine").

#### 4 CONCLUSIONS OF LAW

5 1. The Board possesses jurisdiction over the subject matter hereof and over  
6 Respondent.

7 2. The conduct and circumstances described above constitute unprofessional  
8 conduct pursuant to A.R.S. § A.R.S. §32-1401(27)(o) – [a]ction that is taken against a  
9 doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's  
10 mental or physical inability to engage safely in the practice of medicine, the doctor's  
11 medical incompetence or for unprofessional conduct as defined by that jurisdiction and  
12 that corresponds directly or indirectly to an act of unprofessional conduct prescribed by  
13 this paragraph. The action taken may include refusing, denying, revoking or suspending a  
14 license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise  
15 limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on  
16 probation by that jurisdiction").

17 3. The conduct and circumstances described above constitute unprofessional  
18 conduct pursuant to A.R.S. § A.R.S. §32-1401(27)(d) – [c]omitting a felony, whether or not  
19 involving moral turpitude. In either case, conviction by any court of competent jurisdiction  
20 or a plea of no contest is conclusive evidence of the commission").

21 4. The conduct and circumstances described above constitute unprofessional  
22 conduct pursuant to A.R.S. § A.R.S. §32-1401(27)(a) – ["v]iolating any federal or state  
23 laws or rules and regulations applicable to the practice of medicine").

#### 24 ORDER

25 IT IS HEREBY ORDERED THAT License Number 17352, issued to Scott R.

1 Werner, M.D. for the practice of allopathic medicine in the State of Arizona, is surrendered  
2 and that Scott R. Werner, M.D. immediately return his wallet card and certificate of  
3 licensure to the Board.

4 DATED and effective this 9<sup>th</sup> day of February, 2005<sup>6</sup>.

5 ARIZONA MEDICAL BOARD

6 (SEAL)



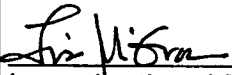
8   
9 TIMOTHY C. MILLER, J.D.  
Executive Director

10 ORIGINAL of the foregoing filed this  
11 10<sup>th</sup> day of February, 2005<sup>6</sup> with:

12 Arizona Medical Board  
13 9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

14 EXECUTED COPY of the foregoing mailed by  
15 certified mail this 10<sup>th</sup> day of February 2005<sup>6</sup> to:

16 Scott R. Werner, M.D.  
17 Address of Record

18   
Investigational Review

**DAVID W. GEARY (USB 6878)**  
ASSISTANT ATTORNEY GENERAL  
**MARK L. SHURTLEFF (USB4666)**  
ATTORNEY GENERAL  
COUNSEL FOR THE DIVISION OF  
OCCUPATIONAL AND PROFESSIONAL LICENSING  
Heber M. Wells Building  
160 East 300 South  
Box 140872  
Salt Lake City, Utah 84114-0872  
Telephone: (801) 366-0310

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**BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING**  
**OF THE DEPARTMENT OF COMMERCE**  
**OF THE STATE OF UTAH**

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IN THE MATTER OF THE LICENSES OF  
**SCOTT RULON WERNER, MD** TO  
PRACTICE MEDICINE AND TO  
ADMINISTER AND PRESCRIBE  
CONTROLLED SUBSTANCES IN THE  
STATE OF UTAH

STIPULATION AND ORDER

Case No. **DOPL 2004-204**

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Scott Rulon Werner ("Respondent") and the Division of Occupational and  
Professional Licensing of the Department of Commerce of the State of Utah ("Division")  
stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily.

3. The Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter.

4. Respondent understands that Respondent is entitled to a hearing before the Utah State Physicians Licensing Board ("the Board"), or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses. Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing.

5. Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities.

6. Respondent admits the following facts:

a. The Division has filed a Petition and Notice of Agency Action alleging gross negligence and gross incompetence in Respondent's treatment of a patient, LRW (Name withheld for confidentiality)

b. On or about January 6, 2005, Respondent entered a plea of guilty in the United States District Court, District of Utah, Central Division, Case No. 2:03-CR-907DAK to one count of Health Fraud, a violation of 18 USC § 1347, punishable by imprisonment of up to ten years and/or a fine of \$250,000.00.

1

c. Respondent admitted to devising a scheme to defraud health care benefit programs by submitting false claims representing that Respondent had rendered IV therapy services for beneficiaries when in truth and fact Respondent had rendered chelation therapy services for beneficiaries, resulting in payments from health care benefit programs to which Respondent was not entitled.

d. As part of the plea agreement, Respondent agreed to surrender his license to practice medicine and his license to prescribe controlled substances.

7. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501 (2)(a), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-67-401.

Therefore, Respondent agrees that an Order shall be entered in this matter as follows:

a. The Respondent's license to practice medicine and Respondent's license to prescribe controlled substances is surrendered pursuant to Utah Code Annotated § 58-1-306.

b. Pursuant to Utha Code Ann. § 58-1-306(3) this surrender of Respondent's licenses terminates all rights and privileges associated with the licenses.

c. Pursuant to Utah Code Ann. § 58-1-306(6) this surrender of licenses occurs while adjudicative proceedings are pending against the licensee for unprofessional or unlawful conduct and the division may report the surrender of licenses to appropriate state and federal agencies and licensing data banks.


8. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

9. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

10. The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director.


11. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &  
PROFESSIONAL LICENSING

BY:   
DIANA BAKER, MS RN  
Bureau Manager

DATE: 5/31/05

MARK L. SHURTLEFF  
ATTORNEY GENERAL

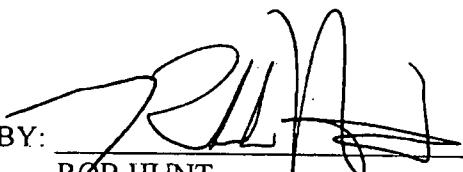
BY:   
DAVID W. GEARY  
Counsel for the Division

DATE: 5/31/05

RESPONDENT

BY:   
SCOTT RULON WERNER

DATE: 5/31/05

BY:   
ROB HUNT  
Counsel for the Respondent

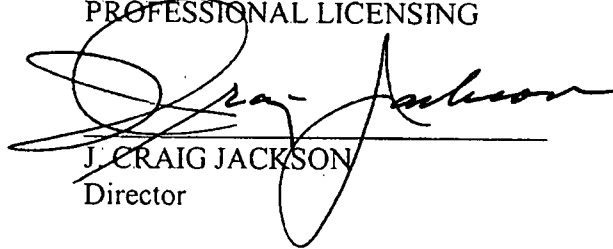
DATE: 5/31/05

**ORDER**

THE ABOVE STIPULATION, in the matter of **Scott Rulon Werner**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 3<sup>rd</sup> day of June, 2005.

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING

  
J. CRAIG JACKSON  
Director